

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNETH FERENCE,

Plaintiff,

vs.

ROMAN CATHOLIC DIOCESE OF
GREENSBURG,

Defendant.

ELECTRONICALLY FILED

No. 2:22-cv-00797-MPK

Magistrate Judge Maureen P. Kelly

JURY TRIAL DEMANDED

RULE 12(b)(6) MOTION TO DISMISS COMPLAINT

AND NOW comes Defendant Roman Catholic Diocese of Greensburg (“Diocese”) through its counsel, Bernard P. Matthews, Jr. Esquire and Alexander W. Brown, Esquire, of Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. and Philip J. Murren, Esquire, David R. Dye, Esquire, and Katherine M. Fitz-Patrick, Esquire of Ball, Murren & Connell, LLC, and files this Rule 12(b)(6) Motion to Dismiss Complaint.

1. Plaintiff brought a single-count complaint against Diocese contending that it violated Title VII of the Civil Rights Act of 1964 by terminating him from his employment due to his sexual orientation. (ECF No. 1 Prelim. Statement.)

2. Plaintiff’s complaint, for multiple reasons, fails to state a claim upon which relief can be granted and should be dismissed with prejudice. Fed. R. Civ. P. 12(b)(6).

3. First, Title VII’s text exempts Diocese from being liable for making employment decisions on the basis of religion as Diocese and Diocese’s school that employed Plaintiff, Aquinas Academy, are part of the Catholic Church.

4. Second, the church autonomy doctrine, which springs from the Religion Clauses of the First Amendment to the United States Constitution, overrides Title VII’s prohibition of sexual orientation discrimination in the context of Diocese terminating

Plaintiff. This is because Plaintiff violated Church doctrine on marriage and homosexuality despite acknowledging that he had an obligation as a Catholic school teacher to abide by those doctrines.

5. Third, the ministerial exception applies to Plaintiff and precludes him from stating a Title VII claim against Diocese.

6. Fourth, the Religious Freedom Restoration Act bars Plaintiff's Title VII claim against Diocese as applying Title VII in this suit's context would substantially burden Diocese's religious practice without advancing a compelling governmental interest and without utilizing the least restrictive means of doing so.

7. Diocese's contemporaneously filed brief supporting this Rule 12(b)(6) motion is hereby incorporated as if fully stated herein.

8. Also incorporated herein is a contemporaneously filed certificate of compliance with the Court's Rule 12(b) motion meet and confer requirement.

9. Exhibits A–D to Diocese's contemporaneously filed brief supporting this Rule 12(b)(6) motion are incorporated as if fully stated herein.

10. Certificates of service with this Rule 12(b)(6) motion to dismiss and Diocese's contemporaneously filed brief supporting this Rule 12(b)(6) motion to dismiss are incorporated as if fully stated herein.

11. A contemporaneously filed proposed order is also incorporated as if fully stated herein.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

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